

## REMARKS

Reconsideration of this Application is respectfully requested. Claims 1-6 and 9-14 are amended and Claims 7 and 8 are cancelled, collectively, without prejudice or disclaimer. Claims 16-21 have been withdrawn from consideration by the Examiner and are, therefore, cancelled, also without prejudice or disclaimer. New Claims 22 and 23 are added. Claims 1-6, 9-15, 22 and 23 are in this case.

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Initially, in the Office Action, the Examiner acknowledged Applicant's election of Claims 1-17 (Group I), the Examiner taking the position that such election has been treated as being without traverse on grounds that Applicant did not distinctly and specifically point out points of contention in the Restriction Requirement. Claims 18-20 (Group II) were then withdrawn from further consideration by the Examiner as being drawn to a non-elected invention, the Examiner explaining that there is no allowable generic or linking claim.

The Examiner then rejected claims 1, 3, 5 and 15 under 35 U.S.C. § 102(b) as being anticipated by Jurewicz et al., U.S. Patent No. 5,499,512. More specifically, the Examiner takes the position that Jurewicz et al. disclose a thermally insulated container with sensors 48, 34 for measuring selected environmental conditions of a payload, means 36 for recording the data, and means, i.e., a telecommunications network 46, for transmitting the data to a remote computer 42.

Next, the Examiner rejected claim 2 under 35 U.S.C. § 103(a) as being obvious and, therefore, unpatentable over Jurewicz et al., as applied to claim 1 above, and further in view of Brendel et al., U.S. Patent No. 6,318,100. According to the Examiner, Brendel

et al. (column 2, lines 8-25) teach the use of ambient temperature sensors in a transport unit to control power consumption and temperature of a payload. The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Jurewicz et al., in view of the teachings of Brendel et al., such that it included the use of ambient temperature sensors for controlling power consumption and temperature of the payload.

Also, the Examiner rejected claim 4 under 35 U.S.C. § 103(a) for obviousness over Jurewicz et al., as applied to claim 1 above, and further in view of Singh et al., U.S. Patent No. 6,675,591. In particular, the Examiner asserts that Singh et al. '591 teach (in column 14, lines 25-44) the use of recorded temperature related data to calculate the remaining lifetime of an item in a payload. The Examiner determined that it would have been obvious to one of ordinary skill in the art to have modified the system of Jurewicz et al. such that it included the use of recorded temperature related data to calculate the remaining lifetime of an item in the payload, in view of the teachings of Singh et al. '591.

In addition, the Examiner rejected claim 6 under 35 U.S.C. § 103(a) as being obvious and, therefore, unpatentable over Jurewicz et al., as applied to claim 1 above, and further in view of Singh et al., U.S. Patent No. 6,892,546. The Examiner explains that Singh et al. '546 (column 4, lines 34-43) teach the use of cellular phones to provide a communications network for monitoring the condition of refrigerated items at a remote location. The Examiner found, it would have been obvious to have modified the system of Jurewicz et al., according to the teachings of Singh et al. '546, such that it included the use of cellular phones in order to provide a communications network for monitoring the condition of the payload.

Thereafter, the Examiner rejected claims 7-14 under 35 U.S.C. § 103(a) as obvious over Jurewicz et al., as applied to claim 1, and further in view of Forster et al., U.S. Patent No. 6,281,797. Forster et al., says the Examiner, teach the use of means for deactivating a telecommunications device in response to acceleration sensors 118e, pressure sensors 118c, position location equipment 118a, and means for detecting the frequency of electrical systems (in column 9, line 35 to column 12, line 61) to prevent transmission inside or near aircraft. The Examiner then decided that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Jurewicz et al., in view of the teachings of Forster et al., such that it included means for deactivating a telecommunications device in response to acceleration sensors, pressure sensors, position location equipment, and means for detecting the frequency of electrical systems to prevent transmission inside or near aircraft.

Last, the Examiner rejected claims 16 and 17 under 35 U.S.C. § 103(a) as being obvious and, therefore, unpatentable over Jurewicz et al., as applied to claim 1 above, and further in view of Modler et al., U.S. Patent No. 4,276,752. Specifically, the Examiner takes the position that Modler et al. disclose the use of a heat reservoir 11 and means 65 for controlling the flow of heat to the reservoir to maintain the temperature of a payload. The Examiner concluded that it would have been obvious to have modified the system of Jurewicz et al. such that it included the use of a heat reservoir and means for controlling the flow of heat to the reservoir to maintain the temperature of a payload, in view of the teachings of Modler et al.

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In response, Applicant has undertaken to amend Claim 1, without prejudice or disclaimer, with the following language as substantially set forth in Claims 7-10 as originally filed: - - *the container further comprising a switch for deactivating the data transmitting device, the switch having a first device for detecting a first electrical system with an operating frequency between about 300 Hz and about 500 Hz and a second device for detecting a second electrical system with an operating frequency generally within a range of 40 Hz and 70Hz, wherein the switch is arranged so as to deactivate the data transmitting device in response to detection of the first electrical system, and wherein operation of the switch is inhibited generally in response to detection of the second electrical system* - -.

Applicant respectfully notes that support for is language may be found, for example, in Claims 7-10 as originally filed, namely, on page 13, lines 10-18 (300 to 500Hz), and on page 4, lines 10-14 (40 to 70Hz). Claims 7 and 8 are cancelled, accordingly, and new Claims 22 and 23 are added which also specify applicable frequency ranges. Support for Claims 22 and 23 may be found, for instance, in the Specification, on page 10, line 14, and on page 4, line 14, respectively.

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Notwithstanding the foregoing, Applicant, however, respectfully disagrees with the Examiner's reading and application the cited references to the present invention.

Specifically, none of the cited references, whether taken alone or in any combination, disclose or suggest *inter alia* a device for detecting a second frequency range of 40 to 70Hz and, thereby, inhibiting a "switch-off" operation, as set forth by

Applicant's invention. This feature advantageously enables Applicant's container system to discriminate between a situation when the container is *loaded onto* an aircraft as opposed to when the container is located in a warehouse *adjacent to* an aircraft and adjacent a mains electrical system.

Applicant's invention, we respectfully submit, is particularly beneficial in the latter situation as its communications device is permitted to continue working and, thereby, communicate with a control center. More particularly, if first device 23 of Applicant's invention detects, for example, a signal of approximately  $400\text{ Hz} \pm 24\text{ Hz}$  and his second device 35 detects a signal having a frequency of approximately  $55\text{ Hz} \pm 10\text{ Hz}$ , then no inhibit signal 43 is sent to data transmitting device 19. This is because most aircraft electric systems do not operate around  $55\text{ Hz} \pm 10\text{ Hz}$  (i.e., a mains frequency). According to this scenario, Applicant's container 1 has effectively determined that it is located close to an aircraft but has not yet actually been loaded onto the aircraft. The container may be located in a warehouse within the perimeter of an airport and there may be an aircraft in close proximity to the warehouse. Since second device 35 can detect the mains signal from the warehouse, the telecommunications or data transmitting device 19 is not switched-off.

On the other hand, if first device 23 detects a signal of approximately  $400\text{Hz} \pm 24\text{Hz}$  but second device 35 does *not* detect a signal of approximately  $55\text{Hz} \pm 10\text{Hz}$ , then Applicant's logic system 33 sends an inhibit signal 43 to prevent operation of, i.e., switch-off, data transmitting device 19.

Not only do the cited references fail to disclose the foregoing solution, but they

also neither disclose nor do they suggest a need to discriminate between these two situations characteristic of transportation and storage.

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Hence, none of the cited references, whether taken alone or in any combination, disclose or suggest a container with a switch having a first device for detecting a first electrical system with an operating frequency between about 300 Hz and about 500 Hz, and a second device for detecting a second electrical system with an operating frequency generally within a range of 40 Hz and 70Hz, wherein the switch deactivates the data transmitting device in response to detection of the first electrical system, but operation of the switch is inhibited upon detection of the second electrical system.

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In addition, Claims 1, 2-6 and 9-14 as well as the Specification have been amended to further comport with U.S. practice, and, in so doing, to better define the invention without limiting effect, namely, to delineate - - data transmitting - - rather than “telecommunications”, - - linked - - instead of “connected”, - - which comprises - - rather than “including”, redundancies, e.g., - - switch - - instead of “switch device”, and clarifications, e.g., - - motion sensor - - rather than “acceleration sensor” and - - deceleration - - in place of “deceleration motion”.

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Based on the foregoing, Applicant respectfully submits that none of the cited references, taken alone or in any combination, disclose or suggest their invention, as claimed. Withdrawal of the Examiner’s rejections under §§ 102(b) and 103(a) is respectfully requested.

Applicant has made a good faith attempt to place this Application in condition for allowance. Favorable action is requested. If there is any further point requiring attention prior to allowance, the Examiner is asked to contact Applicant's counsel at (646) 265-1468.

Respectfully submitted,



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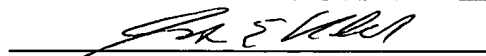
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